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1ST CIRCUIT COURT
STATE OF HAWAII
FILED

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T. WONG
CLERK

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

THE STATE OF HAWAII, by its Office)
of Consumer Protection,)

Plaintiff,)

vs.)

MONTICELLO UNIVERSITY, a Hawaii)
nonprofit corporation; THOMAS)
JEFFERSON UNIVERSITY, a Hawaii)
nonprofit corporation; EDUCATION)
MANAGEMENT ASSOCIATES, LLC, a)
Kansas limited liability corporation;)
LESLIE EDWIN SNELL aka Les Snell;)
GRETCHEN SNELL DEKKER; JOHN)
DOES 1-20; DOE CORPORATIONS)
1-10; and DOE ENTITIES 1-10,)

Defendants.)

CIVIL NO. 99-2769-07
(Other Civil Action)

COMPLAINT AND SUMMONS

COMPLAINT

Plaintiff, for a cause of action against the above-named defendants,
avers and alleges that:

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LESLIE EDWIN SNELL aka Les Snell;)	
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DOES 1-20; DOE CORPORATIONS)	
1-10; and DOE ENTITIES 1-10,)	
)	
Defendants.)	
)	
)	
)	
_____)	

COMPLAINT

Plaintiff, for a cause of action against the above-named defendants,
avers and alleges that:

ALLEGATIONS COMMON TO ALL COUNTS

1. This is an action brought by the Office of Consumer Protection of the State of Hawaii pursuant to Hawaii Rev. Stat. Chapters 446E, 480 and 487 seeking to enjoin defendants from engaging in certain acts or practices in violation of Hawaii's consumer protection laws and to obtain other and additional relief.

2. This court has subject matter jurisdiction over this case pursuant to Hawaii Rev. Stat. §§ 480-21 and 603-21.5.

3. The acts complained of herein occurred in the City and County of Honolulu, State of Hawaii.

4. Defendant Monticello University ("Monticello") is a Hawaii nonprofit corporation ostensibly with its corporate offices located at 2564 B Manning Place, Kailua, Hawaii 96734.

5. Defendant Thomas Jefferson University ("TJU") is a Hawaii nonprofit corporation with its corporate offices ostensibly located at 75-1027 Henry Street, Kailua-Kona, Hawaii 96740.

6. Defendant Education Management Associates, LLC ("EMA") is a Kansas limited liability corporation with its offices located at 8600 W. 110th Street, Suite 206, Overland Park, Kansas 66210.

7. Defendant Leslie Edwin Snell ("Snell") is also known as Les Snell and is a resident of the State of Kansas.

8. Defendant Gretchen Snell Dekker ("Dekker") is a resident of the State of Kansas.

9. Defendants John Does 1-20, Doe Corporations 1-10, and Doe Entities 1-10 are defendants who have engaged in and/or participated and/or aided and/or assisted in and/or furnished the means for the violations described herein, and their true capacities, names and relationships with or responsibilities to or involvement with the named defendants are unknown to plaintiff at this time. Plaintiff has undertaken an investigation to determine the identities of the defendants described in this paragraph, but at this time, said identities have not been discovered.

10. On or about May 19, 1997 TJU was incorporated in the State of Hawaii. Its stated purpose was to act as a "Degree Granting Post Secondary Educational Institution."

11. TJU's articles of incorporation listed defendant Snell and his wife, Diana Snell, as the sole officers of the corporation.

12. TJU's articles of incorporation listed the corporate address as 75-1027 Henry Street, Kailua-Kona, Hawaii 96740. This address is a shopping center called Crossroads Shopping Center. There has never been an office for TJU located at the Crossroads Shopping Center.

13. Commencing on a date uncertain, TJU began engaging in trade or commerce by placing advertising in the USA Today newspaper and perhaps other publications offering "JD, PhD, MBA, MA and BA" and listing a 1-800 telephone number.

14. In 1997 the general counsel for the accredited TJU located in Philadelphia, Pennsylvania, filed suit in the United States District Court for the

District of Kansas and, later that year, obtained a consent order and judgment barring defendant Snell (and his associated business entities) from using the name Thomas Jefferson.

15. On February 4, 1998, Monticello was incorporated in the State of Hawaii. Its stated purpose was also to act as a "Degree Granting Post Secondary Educational Institution."

16. Monticello's articles of incorporation listed Kristen Dekker and Gretchen Dekker as the President and Vice-President. Kristen Dekker and Gretchen Dekker are married to each other. Gretchen Dekker is the daughter of defendant Snell.

17. Monticello's articles of incorporation listed the corporate address as 2564 B Manning Place, Kailua, Hawaii 96734. This address is the personal residence of Robert Quick and Jill Quick and is located in base housing on the Kaneohe Bay Marine Corps. Air Station. Jill Quick is listed as a director of Monticello. She is the sister of defendant Snell's son Peter's wife. There has never been a corporate office for Monticello located at her residence.

18. Commencing on a date uncertain, Monticello began engaging in trade or commerce by placing advertising in the USA Today newspaper, INC magazine and The Economist and perhaps other publications offering "Prestigious Distance Learning Professional Experience Credits" and touting its "International Acceptance." The original advertisements listed telephone and fax numbers in the state of Kansas and indicated its administrative offices were located in Overland Park, Kansas.

19. Subsequently, Monticello changed its advertising to claim that it offered "Accredited Doctor, Master, Bachelor" degrees and claimed to be "Prestigious, Authorized and Accredited."

20. Commencing on a date uncertain, Monticello also began engaging in trade or commerce by maintaining an Internet Webster located at <http://www.monticello.edu>.

21. Monticello's conduct is ongoing. Monticello has and is continuing to run its advertisements in newspapers and magazines available throughout the United States and the world through at least May 1999.

22. Monticello is not now and never has been accredited by a recognized accrediting agency or association recognized by the United States Secretary of Education.

23. Thomas Jefferson University is not now and never has been accredited by a recognized accrediting agency or association recognized by the United States Secretary of Education.

COUNT I
MONTICELLO'S FAILURE TO MAKE
STATUTORY DISCLOSURES OF NON-ACCREDITATION

24. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 23 as though fully set forth herein.

25. Monticello is an "unaccredited institution" as that phrase is defined in Hawaii Rev. Stat. § 446E-1.

26. Monticello has failed to disclose in all catalogs, promotional materials and/or written contracts for instruction the fact that it is not fully

accredited by any nationally recognized accrediting agency or association listed by the United States Secretary of Education in violation of Hawaii Rev. Stat. § 446E-2(a).

COUNT II
THOMAS JEFFERSON'S FAILURE TO MAKE
STATUTORY DISCLOSURES OF NON-ACCREDITATION

27. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 26 as though fully set forth herein.

28. TJU is an "unaccredited institution" as that phrase is defined in Hawaii Rev. Stat. § 446E-1.

29. TJU has failed to disclose in all catalogs, promotional materials and/or written contracts for instruction the fact that it is not fully accredited by any nationally recognized accrediting agency or association listed by the United States Secretary of Education in violation of Hawaii Rev. Stat. § 446E-2(a).

30. Each and every catalog, promotional material and/or written contract for instruction that failed to disclose the fact that TJU is not fully accredited by any nationally recognized accrediting agency or association listed by the United States Secretary of Education constitutes a separate and independent violation of Hawaii Rev. Stat. § 446E-2(a).

31. Violations of Hawaii Rev. Stat. § 446E-2(a) constitute *per se* violations of Hawaii Rev. Stat. § 480-2(a).

COUNT III
MONTICELLO 'S FAILURE TO MAKE STATUTORY
DISCLOSURES OF NON-ACCREDITATION (ADVERTISING)

32. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 31 as though fully set forth herein.

33. Monticello has failed to disclose in all advertisements the fact that it is not fully accredited by any nationally recognized accrediting agency or association listed by the United States Secretary of Education in violation of Hawaii Rev. Stat. § 446E-2(a).

34. Each and every publication of an advertisement that failed to disclose the fact that Monticello is not fully accredited by any nationally recognized accrediting agency or association listed by the United States Secretary of Education constitutes a separate and independent violation of Hawaii Rev. Stat. § 446E-2(a).

35. Violations of Hawaii Rev. Stat. § 446E-2(a) constitute *per se* violations of Hawaii Rev. Stat. § 480-2(a).

COUNT IV
THOMAS JEFFERSON UNIVERSITY'S FAILURE
TO MAKE STATUTORY DISCLOSURES OF
NONACCREDITATION (ADVERTISING)

36. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 35 as though fully set forth herein.

37. TJU has failed to disclose in all advertisements the fact that it is not fully accredited by any nationally recognized accrediting agency or association listed by the United States Secretary of Education in violation of Hawaii Rev. Stat. § 446E-2(a).

38. Each and every publication of an advertisement that failed to disclose the fact that TJU is not fully accredited by any nationally recognized accrediting agency or association listed by the United States Secretary of Education constitutes a separate and independent violation of Hawaii Rev. Stat. § 446E-2(a).

39. Violations of Hawaii Rev. Stat. § 446E-2(a) constitute *per se* violations of Hawaii Rev. Stat. § 480-2(a).

COUNT V
DECEPTIVE REPRESENTATIONS

40. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 39 as though fully set forth herein.

41. In connection with the solicitation and sale of their goods or services, defendants and their agents and employees engaged in conduct and made representations, ether directly or by implication, including but not limited to those as set forth herein which had the tendency or capacity to deceive or mislead, all in violation of Hawaii Rev. Stat. § 480-2(a):

- a. Representing to the public that Monticello offers “real learning, real achievement, real recognition, real accreditation, real degrees and real value,” when in truth and fact, Monticello degrees are not accredited;
- b. Representing, by implication, that Monticello has staff, faculty and personnel, when, in truth and fact, is operated primarily by one individual, defendant Snell, and a handful of his family members;

- c. Representing that Monticello is a legally qualified, non-profit, degree-granting institution of higher education, in the State of South Dakota and Hawaii...” and that its degrees” have the SAME legal status as degrees from any other legally—qualified American university, when in truth and fact, they do not;
- d. Representing, by implication, that the ICEHE has other member schools, when in truth and fact, Monticello and Thomas Jefferson University are the only such members;
- e. Representing, by implication, those major international companies approve or endorse degrees for, when in truth and fact, they do not;
- f. Representing that Monticello complies with all local, city, county, municipal, state and federal regulations, when in truth and fact, it does not;
- g. Representing that Monticello does not utilize erroneous or misleading advertising, when in truth and fact, it does

42. In addition, defendants fail to disclose to prospective purchasers a number of material facts, including but not limited to those set forth herein, all in violation of Hawaii Rev. Stat. § 480-2(a):

- a. Failing to disclose that one individual is responsible for all operations of nine schools (Locke School of Management, Roosevelt School of Public Administration, Churchill School

of History & Government. DeTocqueville School of Educational Policy and Leadership, Franklin School of Social Sciences, Kennedy School of Criminal Justice, Dag Hammerskjold School of Diplomacy & International Studies, King's College & Seminary, Monticello University School of Law) and 425 courses in 14 separate disciplines;

- b. Failing to disclose that Monticello is not approved by the American Bar Association and that its degree holders are not qualified to sit for the bar examination in most states.

43. Each such representation or omission constitutes a separate and independent violation of Hawaii Rev. Stat. § 480-2(a) and/or § 481A-3(a).

COUNT VI
DEFENDANT SNELL'S INDIVIDUAL LIABILITY

44. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 43 as though fully set forth herein.

45. Defendant Snell was, at the time of the acts complained of herein, an officer and/or director of Monticello, TJU and/or EMA.

46. Defendant Snell was an active or passive participant in the conduct of Monticello, TJU and/or EMA as set forth in the previous counts.

47. Independently, at all times material hereto, defendant Snell aided, abetted, formulated, directed, supervised, participated in, benefited from, facilitated, controlled, knew and approved of, and committed or caused the commission of the various acts and practices of Monticello, TJU, and/or EMA.

COUNT VII
DEFENDANT DEKKER'S INDIVIDUAL LIABILITY

48. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 48 as though fully set forth herein.

49. Defendant Dekker was, at the time of the acts complained of herein, an officer and/or director of Monticello, TJU and/or EMA.

50. Defendant Dekker was an active or passive participant in the conduct of Monticello, TJU and/or EMA as set forth in the previous counts.

51. Independently, at all times material hereto, defendant Dekker aided, abetted, formulated, directed, supervised, participated in, benefited from, facilitated, controlled, knew and approved of, and committed or caused the commission of the various acts and practices of Monticello, TJU and/or EMA.

COUNT VIII
INJUNCTIVE RELIEF

52. Plaintiff repeats and realleges the allegations contained in paragraphs 1 through 51 as though fully set forth herein.

53. Unless defendants are restrained and enjoined by this court from continuing to violate Hawaii Rev. Stat. §§ 446E-2(a), 480-2(a) and 481A-3(a) in the manner described herein, they will continue to do so, irreparably harming and injuring the consuming public of the State of Hawaii.

WHEREFORE, plaintiff prays that this court:

1. Find, order, adjudge and declare that defendants' conduct, as alleged herein, violates the statutory provisions set forth above.

2. Issue a temporary restraining order, preliminary injunction and

permanent injunction enjoining all defendants, their agents, employees, successors and assigns, directly or indirectly, individually or in concert with others, or through any corporate or other device from any of the following:

- a. Publishing, printing or disseminating any advertising, catalogs, promotional materials and/or written contracts for instruction which fail to properly make the disclosures required by Hawaii Rev. Stat. § 446E-2(a).
- b. Representing that they are accredited in any fashion.
- c. Committing any further violations of Hawaii law of a nature similar to the violations alleged herein.
- d. Transacting any business in the State of Hawaii unless and until all amounts defendants are found liable for are paid in full.

3. Assess appropriate civil penalties against each and all of the defendants individually pursuant to Hawaii Rev. Stat. § 480-3.1 and enter judgment in favor of plaintiff accordingly.

4. Award any consumers injured by the aforementioned violations full restitution, including pre and post judgment interest, against all defendants, jointly and severally, pursuant to Hawaii Rev. Stat. § 487-14 and the court's inherent authority and enter judgment accordingly.

5. Assess and award judgment in favor of plaintiff and against all defendants, jointly and severally, for attorneys' fees, costs, costs of investigation, interest, and other expenses.

6. Award plaintiff such other relief as the court may deem just and

equitable under the circumstances.

DATED: Honolulu, Hawaii, July 21, 1999.

JEFFREY E. BRUNTON
Attorney for Plaintiff

defendants, jointly and severally, for attorneys' fees, costs, costs of investigation, interest, and other expenses.

6. Award plaintiff such other relief as the court may deem just and equitable under the circumstances.

DATED: Honolulu, Hawaii, July 21, 1999.



JEFFREY E. BRUNTON
Attorney for Plaintiff